



TOWN OF LITCHFIELD

2 Liberty Way, Suite 1, Litchfield, NH 03052
Tel: 603-424-4046 Fax: 603-424-3014 www.litchfieldnh.gov

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NST*

1 August 2013

Newton Tedder
US EPA—Region 1
5 Post Office Square—Suite 100
Mail Code—OEP06-4
Boston, MA 02109-3912

Re: 2013 NH Small MS4 Draft General Permit

Dear Mr. Tedder:

On behalf of the Town of Litchfield, I offer the following comments on the proposed 2013 Draft MS4 NPDES Permit. Over the past several months, I have endeavored to review and consider the implications of this permit, an exercise that is somewhat challenging serving in a small organization without engineering staff.

Since the issuance of the last permit, nearly ten years ago, the Town of Litchfield has undertaken significant steps to manage stormwater in a rural residential setting. We have taken steps over the past few years that have improved water quality townwide, despite having only a fraction of the town covered by the original permit (and only slightly more of the town projected to be covered by this permit.)

The issue of scale is the first area of concern. The determination of those communities included and excluded is inconsistent with the broader goals of water quality protection and improvement. Litchfield is a small community nestled between much larger communities and has retained a rural character, where our neighbors have not. To that end, there is extremely limited commercial development in town, and the majority of that is outside of the permit area. Our major municipal facilities including Town Hall, Police Station, Highway Department and Solid Waste Facility are outside of the permit area. The agricultural district along the Merrimack River is also excluded. What this leaves in the permit area are single family residential neighborhoods with small localized stormwater systems. There is no sanitary sewer system within Litchfield. Specifically, as a previously permitted community, the lack of a meaningful opportunity to request a waiver is a challenge. Ideally, the ability to request a waiver would include benchmarks for levels of impervious coverage and housing density rather than a blanket census designation.

We also request clearly stated flexibility regarding implementation and timing. It appears, that this permit is heavily front loaded with requirements in the first few years of the permit. Section 2.2.2

appears to classify all non-compliant discharges as requiring immediate remediation. This timeframe is not practical. It will require additional time to prioritize, plan, fund and construct necessary BMPs. It would be more constructive and realistic to allow the Town to work with NHDES during the first three years of the permit to mutually determine the highest priority waters to address first. Additionally, this will allow us time to identify appropriate funding sources which will likely need Town Meeting authorization; this opportunity is usually one time annually.

In addition to requiring additional time to prioritize and fund, a smaller community, such as Litchfield, will likely need to rely on collaboration with our neighbors, either through a regional stormwater coalition or a Regional Planning Commission, in order to effectively and efficiently comply with the various requirements of the permit. It would be more reasonable and for regional groups to share testing equipment and technical support, rather than for each town to independently obtain materials and services. Further, a regional approach that imposes less financial burden on each Town separately, would allow greater and faster progress on achieving the overall goal of cleaner water. We would request that a reasonable window of twelve to eighteen months be provided for establishment of such collaboration mechanisms which may require inter-municipal agreements.

Section 2.1.1.c establishes the requirement to remedy any conditions causing an exceedance of water quality standards within 60 days of a determination that our discharge is causing an exceedance. The section specifically spells out that the compliance clock begins immediately and continues until the source is remedied and that there is not a grace period. This, coupled with the fact that we have to conduct dry weather sampling of all of our outfalls at the same time, will put the Town into almost immediate non-compliance. To help deter the stringent requirements of the water quality exceedance, the Town is asking for time to evaluate the water quality data that NHDES has used to determine the 303 (d) list. Within the first 3 years of the permit we could prioritize our outfalls based on the use of the receiving water value (as determined by NHDES) and risk to the public. Then, a targeted sampling program of those high value/high priority water bodies can inform plans to remedy any sources of contaminants specifically from our MS4. Section 2.1.2 prohibits any new or increased discharges (including pollutant loadings). Does this mean that the Town needs to notify NHDES every time we issue a driveway permit or add a catch basin to our drainage system? Do we also have to provide a waste load analysis for every driveway? This provision seems administratively burdensome and the Town doubts that NHDES has the resources to respond to such a requirement.

Overall, the Town wishes to support and enhance clean water and to mitigate wherever possible those areas where stormwater impacts it. We are concerned, as a small town with limited staff and budget, that a rigid program of standards applying to all towns and cities in the permit area, without acknowledgement of size, capacity and available funding, will pose an unreasonable hardship on our property taxpayers. More importantly, the cost of regulatory compliance will likely compel us to devote scarce resources to the filing of paperwork rather than making meaningful changes on the ground in the community.

We appreciate the opportunity to offer comment and hope that these comments and the comments of our similarly situated colleagues can generate a revised permit which supports environmental improvement with a responsible and reasonable of scarce local resources.

Sincerely,

A handwritten signature in dark ink, appearing to be 'JH', with a long horizontal stroke extending to the right.

Jason Hoch
Town Administrator